

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**EARL E. SYDNER, JR.,**

**Plaintiff,**

**v.**

**BOB LEDBETTER, et al.,**

**Defendants.**

**08-cv-753-DRH-CJP**

**ORDER**

**HERNDON, Chief Judge:**

Before the Court is defendant Sergeant Bunmer's<sup>1</sup> Motion to Dismiss (Doc. 19). The crux of the Motion is that Defendant asserts that he was not on duty on the day at issue in Plaintiff's civil rights suit and therefore, he cannot be held either individually liable or liable in a supervisory capacity under **42 U.S.C. § 1983**. In response (Doc. 24), Plaintiff states that upon reviewing the attached documentation to Defendant's Motion, he agrees with Defendant's position and does not object to his dismissal from this suit. However, Plaintiff does request leave to amend his Complaint so that he may name the proper Defendant.

Because Defendant's position is well-taken and because Plaintiff's

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<sup>1</sup> The Motion states that the Defendant's name is actually "Sergeant Richard Brunner," but was improperly named as "Sergeant Bunmer" in Plaintiff's Complaint.

concedes, the Motion to Dismiss (Doc. 19) is hereby **GRANTED**. Accordingly, defendant Sergeant Bunmer (whose real name is Richard Brunner) is hereby **DISMISSED WITH PREJUDICE** from Plaintiff's suit. In addition, the Court hereby allows Plaintiff leave to amend his Complaint so that he may attempt to name the proper defendant (in place of "Sergeant Bunmer"). Plaintiff shall file his Amended Complaint by **December 2, 2009**.

**IT IS SO ORDERED.**

Signed this 18th day of November, 2009.

/s/ David R. Herndon

**Chief Judge**  
**United States District Judge**